

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 247

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-13.6-3-3, AS AMENDED BY HEA 1040-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) There is established a certification board. The following persons shall serve on the certification board:

- ~~(1) The state fire marshal or the state fire marshal's designee.~~
- ~~(2) (1) The chief engineer of the department of natural resources.~~
- ~~(3) (2) The director.~~
- (3) The building law compliance officer of the department of homeland security.**

(b) The board shall administer IC 4-13.6-4.

SECTION 2. IC 5-2-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, unless the context otherwise requires:

- ~~(a)~~ **(1)** "Criminal history information" means information collected by criminal justice agencies or individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release.
- ~~(b)~~ **(2)** "Criminal intelligence information" means information on identifiable individuals compiled in an effort to anticipate, prevent or monitor possible criminal activity, **including terrorist**

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activity. "Criminal intelligence information" does not include criminal investigative information which is information on identifiable individuals compiled in the course of the investigation of specific criminal acts.

~~(c)~~ **(3)** "Criminal justice agency" means any agency or department of any level of government which performs as its principal function the apprehension, prosecution, adjudication, incarceration, rehabilitation of criminal offenders, or location of parents with child support obligations under 42 U.S.C. 653. The term includes:

(A) a nongovernmental entity that performs as its principal function the:

- ~~(1)~~ **(i)** apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or
- ~~(2)~~ **(ii)** location of parents with child support obligations under 42 U.S.C. 653;

under a contract with an agency or department of any level of government;

(B) the department of homeland security; and

(C) the Indiana intelligence fusion center established by IC 10-19-10-1.

SECTION 3. IC 5-14-1.5-6.1, AS AMENDED BY P.L.235-2005, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:
 - (A) Collective bargaining.
 - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
 - (C) The implementation of security systems.
 - (D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

- (3) For discussion of the assessment, design, and implementation

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of school safety and security measures, plans, and systems.

(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, or economic development commissions.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant

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about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 4. IC 5-14-3-4, AS AMENDED BY P.L.210-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

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(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the ~~twenty-first century research and technology fund board of the Indiana economic development corporation~~ under ~~IC 4-4-5.1~~. **IC 5-28-16.**

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the Indiana ~~development~~ finance authority, ~~the film commission~~, ~~the Indiana business modernization and technology corporation~~, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana

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economic development corporation, the Indiana ~~development~~ finance authority, ~~the Indiana film commission~~, ~~the Indiana business modernization and technology corporation~~, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

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(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

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- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;
- (E) threat assessments;
- (F) **intelligence assessments**;
- (G) domestic preparedness strategies;
- ~~(G)~~ (H) the location of community drinking water wells and surface water intakes;
- ~~(H)~~ (I) the emergency contact information of emergency responders and volunteers;
- ~~(I)~~ (J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- ~~(J)~~ (K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:
 - (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
 - (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

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(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

- (A) Telephone number.
- (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 5. IC 10-15-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. "Foundation" refers to the Indiana ~~emergency management, fire and building services, and public safety training~~ **homeland security** foundation established by IC 10-15-2-1.

SECTION 6. IC 10-15-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. ~~"Funds"~~ **"Fund"** means the ~~funds~~ **Indiana homeland security fund** established by IC 10-15-3-1.

SECTION 7. IC 10-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The Indiana ~~emergency management, fire and building services, and public safety training~~ **homeland security** foundation is established as a public body corporate and politic.

SECTION 8. IC 10-15-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The foundation may acquire personal property to be donated under subsection (b). The foundation may receive donations of real property to be disposed of

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under subsection (c).

(b) **As used in this subsection, "person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, a trust, or a governmental entity.** Subject to subsection (d), the foundation may donate personal property to the following:

- (1) The department.
- (2) The institute.
- (3) The agency.
- (4) A unit of local government.

(5) A person.

(c) The foundation shall dispose of real property donations in the following manner:

- (1) Real property may be accepted by the foundation for purpose of resale, either on the open market or to the state or a unit of local government at a price set by the foundation.
- (2) The proceeds from the sale of real property shall be donated to a fund that the donor has chosen or, if the donor has not chosen a fund, to a fund to be chosen by the foundation.

(d) The foundation must have the approval of the executive director to donate property to the state.

SECTION 9. IC 10-15-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The ~~following funds are established:~~

- ~~(1) Emergency management fund;~~
- ~~(2) Fire services fund;~~
- ~~(3) Building services fund;~~
- ~~(4) Emergency medical services fund;~~
- ~~(5) Stewardship fund;~~

Indiana homeland security fund is established to fund projects of the department of homeland security.

(b) The ~~funds fund~~ established by subsection (a)(1) through (a)(4) ~~consist~~ **(a) consists of:**

- (1) gifts and proceeds received under section 5 of this chapter; and
- (2) fees from license plates as set forth in section 6 of this chapter.

~~(c) The stewardship fund established by subsection (a)(5) consists of fees from license plates as set forth in section 6 of this chapter.~~

SECTION 10. IC 10-15-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. The foundation shall do the following:

- (1) Hold the ~~funds fund~~ in the name of the foundation.

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(2) Administer the ~~funds~~: **fund**.

(3) Make all expenditures from the ~~funds~~: **fund**.

SECTION 11. IC 10-15-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. Gifts of money to the ~~funds fund~~ or the foundation or the proceeds from the sale of gifts donated to the ~~funds fund~~ or the foundation shall be deposited in the ~~designated~~ fund.

SECTION 12. IC 10-15-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. Fees from license plates issued under IC 9-18-45 shall be deposited ~~as follows~~:

(1) ~~Twenty-two and one-half percent (22.5%) of the fees in the emergency management fund~~:

(2) ~~Twenty-two and one-half percent (22.5%) of the fees in the fire services fund~~:

(3) ~~Twenty-two and one-half percent (22.5%) of the fees in the building services fund~~:

(4) ~~Twenty-two and one-half percent (22.5%) of the fees in the emergency medical services fund~~:

(5) ~~Ten percent (10%) of the fees in the stewardship fund~~:

in the fund.

SECTION 13. IC 10-15-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The expenses of administering this chapter shall be paid from money in the ~~funds~~: **fund**.

SECTION 14. IC 10-15-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The money in the ~~funds fund~~ at the end of a state fiscal year remains in the ~~designated funds fund~~ and does not revert to any other fund. If the foundation is terminated, the money in the ~~funds fund~~ reverts to the ~~emergency management contingency fund established by IC 10-14-3-28~~: **fire and building services fund established by IC 22-12-6-1**.

SECTION 15. IC 10-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. The ~~funds are fund~~ is subject to audit by the state board of accounts.

SECTION 16. IC 10-19-1-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.3. "Criminal intelligence information" has the meaning set forth in IC 5-2-4-1.**

SECTION 17. IC 10-19-1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 5. "Fusion center" refers to the Indiana intelligence fusion center established by IC 10-19-10-1.**

SECTION 18. IC 10-19-3-3, AS ADDED BY P.L.22-2005,

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SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The executive director shall do the following:

- (1) Serve as the chief executive and administrative officer of the department.
- (2) Serve as the director of the council.
- (3) Administer the application for, and disbursement of, federal and state homeland security money for all Indiana state and local governments.
- (4) Develop a single strategic plan for preparing and responding to homeland security emergencies in consultation with the council.
- (5) Serve as the state coordinating officer under federal law for all matters relating to emergency and disaster mitigation, preparedness, response, and recovery.
- (6) Use and allocate the services, facilities, equipment, personnel, and resources of any state agency, on the governor's behalf, as is reasonably necessary in the preparation for, response to, or recovery from an emergency or disaster situation that threatens or has occurred in Indiana.
- (7) Develop a plan to protect key state assets and public infrastructure from a disaster or terrorist attack.

(8) Operate the fusion center.

SECTION 19. IC 10-19-8-2, AS ADDED BY P.L.22-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The council consists of the following members:

- (1) The lieutenant governor.
- (2) The executive director.
- (3) The superintendent of the state police department.
- (4) The adjutant general.
- (5) The state health commissioner.
- (6) The commissioner of the department of environmental management.
- (7) The ~~assistant commissioner~~ **director of the department of agriculture.**
- (8) The chairman of the Indiana utility regulatory commission.
- (9) The commissioner of the Indiana department of transportation.
- (10) The executive director of the Indiana criminal justice institute.
- (11) The commissioner of the bureau of motor vehicles.
- (12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

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(13) The speaker of the house of representatives or the speaker's designee.

(14) The president pro tempore of the senate or the president pro tempore's designee.

(15) The chief justice of the supreme court.

(16) The director of the department of natural resources or, if designated by the director, the deputy director who manages the bureau of law enforcement and administration.

(17) The state veterinarian.

(b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.

(c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

SECTION 20. IC 10-19-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 10. Indiana Intelligence Fusion Center

Sec. 1. As used in this chapter, "collect" means to solicit or receive.

Sec. 2. The Indiana intelligence fusion center is established to:

- (1) collect;**
- (2) integrate;**
- (3) evaluate;**
- (4) analyze;**
- (5) disseminate; and**
- (6) maintain;**

criminal intelligence information and other information to support governmental agencies and private organizations in detecting, preventing, investigating, and responding to criminal and terrorist activity in compliance with applicable state and federal laws and regulations, including 28 CFR 23.

Sec. 3. (a) The department shall operate the Indiana intelligence fusion center under the direction of the governor.

(b) The department shall cooperate with:

- (1) the state police department;**
- (2) local, state, or federal government agencies; and**
- (3) private organizations;**

subject to applicable state and federal laws and regulations, including 28 CFR 23.

Sec. 4. The Indiana intelligence fusion center may collect

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criminal intelligence information only if:

- (1) reasonable suspicion exists that the subject of the criminal intelligence information is involved with or has knowledge of possible criminal or terrorist activity; and**
- (2) the criminal intelligence information is relevant to the criminal or terrorist activity.**

SECTION 21. IC 11-11-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A confined person may send and receive, in any language, an unlimited amount of correspondence to or from any person, except as provided by subsection (b).

(b) The department may require prior approval of correspondence between a confined person and another person if the other person **is on parole or:**

- (1) is being held in a correctional facility;
- (2) has been sentenced to a community corrections program;
- (3) is being held in a county jail; or
- (4) is participating in a work release program;

operated by the department, a county sheriff, a county, the United States, or any state.

(c) If the department determines that the correspondence referred to under ~~section 2(b) of this chapter~~, **subsection (b)** is in the best interest of both the confined person and the facility involved, such correspondence shall be permitted.

(d) When the department has prohibited correspondence referred to under ~~section 2(b) of this chapter~~, **subsection (b)** it shall follow the procedure for notification and availability of the grievance procedure as provided in sections 4(d) and 4(e) of this chapter.

SECTION 22. IC 11-11-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. **(a) The department may read and examine correspondence sent to or from a confined person unless it is clearly marked as correspondence that is privileged under state or federal law. The department may not disclose the contents of the correspondence to another person unless:**

- (1) the department has reasonable grounds to believe that the correspondence:**
 - (A) poses an immediate danger to the safety of an individual or a serious threat to the security of the facility or program; or**
 - (B) is prohibited under section 2(b) of this chapter;**
- (2) the correspondence contains contraband or prohibited**

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property;

(3) the confined person has been:

(A) convicted of a crime that involved the use of correspondence to engage in an illegal activity; or

(B) found guilty after a hearing conducted by the department of using correspondence to commit misconduct;

(4) the department receives a written request from a supervising authority of any federal or state law enforcement agency stating that the agency has reasonable grounds to believe that a crime is being committed or has been committed by the confined person and that the department should monitor the confined person's correspondence; or

(5) the department has reasonable grounds to believe that the correspondence may pose a threat to national security.

(a) (b) The department may open correspondence that is sent to or from a confined person to inspect for and remove contraband or prohibited property and to permit removal of funds for crediting to the confined person's account. The correspondence may not be read, censored, copied, or otherwise interfered with in regard to its prompt delivery unless it is not clearly marked as correspondence that is privileged by other law and:

(1) the department has reasonable grounds to believe that the correspondence:

(A) poses an immediate danger to the safety of an individual or a serious threat to the security of the facility or program; or

(B) is prohibited under section 2(b) of this chapter;

(2) the correspondence contains contraband or prohibited property;

(3) the confined person has been:

(A) convicted of a crime that involved the use of correspondence to engage in an illegal activity; or

(B) found guilty after a hearing conducted by the department of using correspondence to commit misconduct; or

(4) the department receives a written request from a supervising authority of any federal or state law enforcement agency stating that the agency has reasonable grounds to believe that a crime is being committed or has been committed by the confined person and that the department should monitor the confined person's correspondence; or

(5) the department has reasonable grounds to believe that the correspondence may pose a threat to national security.

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~~(b)~~ (c) The department may adopt procedures to inspect correspondence to or from an offender to determine whether the correspondence contains contraband or prohibited property under subsection (a) **or (b)**. The department shall inform the offender whenever the department removes the offender's funds under subsection ~~(a)~~; **(b)**, including the dollar amount.

~~(c)~~ (d) For purposes of this section, disagreement with the sender's or receiver's apparent moral, political, ethical, ethnic, or religious values or attitudes, veracity, or choice of words may not be used as a reason for censoring, copying, delaying, or disallowing the delivery of a personal communication.

~~(d)~~ (e) This subsection does not apply to correspondence ~~monitored~~ **described** under subsection (a)(4), **(a)(5), (b)(4), or (b)(5)**. If the department delays, censors, copies, or withholds correspondence, it shall promptly notify the person. The notice must be in writing and specify the reason for the action, the name of the sender, the date of any postmark, the date the correspondence was received or deposited at the facility or program, the proposed disposition to be made of the correspondence, the name of the person who made the decision, and the fact that the department's action may be challenged through the grievance procedure.

~~(e)~~ (f) The department shall maintain a record of each decision to withhold, copy, delay, or otherwise interfere with the prompt transmission of correspondence. This record must indicate the information set forth in the notice prescribed in subsection ~~(d)~~; **(e)**. The department shall establish policies to ensure that the contents of any monitored correspondence shall be shared only with necessary department staff. However, if the department believes that any correspondence contains evidence of criminal activity, that correspondence, or a copy, may be shared with appropriate federal or state law enforcement officials.

SECTION 23. IC 16-18-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. ~~(a) "Agency", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-1.~~

~~(b) "Agency", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-1.~~

SECTION 24. IC 16-18-2-92.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 92.6. **(a) "Department", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-1.**

(b) "Department", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-1.



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SECTION 25. IC 16-31-2-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. The commission may impose a reasonable fee for the issuance of a certification under this chapter. The commission shall deposit the fee in the emergency medical services fund established by IC 16-31-8.5-3.**

SECTION 26. IC 16-31-3-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13.5. The commission may impose a reasonable fee for the issuance of a certification under this chapter. The commission shall deposit the fee in the emergency medical services fund established by IC 16-31-8.5-3.**

SECTION 27. IC 16-31-8.5-1, AS AMENDED BY P.L.22-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "~~agency~~" "**department**" refers to the department of homeland security established by IC 10-19-2-1.

SECTION 28. IC 16-31-8.5-3, AS AMENDED BY P.L.22-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The emergency medical services fund is established to defray the personal services expense, other operating expense, and capital outlay of the:

- (1) commission; and
- (2) employees of the ~~agency~~ **department**.

(b) The fund includes money collected under **IC 16-31-2, IC 16-31-3, and IC 16-31-3.5.**

SECTION 29. IC 16-31-8.5-4, AS AMENDED BY P.L.22-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The ~~agency~~ **department** shall administer the fund.

(b) The ~~agency~~ **department** shall deposit money collected under **IC 16-31-2, IC 16-31-3, and IC 16-31-3.5** in the fund at least monthly.

(c) Expenses of administering the fund shall be paid from money in the fund.

SECTION 30. IC 22-11-14.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The fire prevention and building safety commission shall adopt rules under IC 4-22-2 ~~and IC 22-13-2.5~~ to implement a statewide code concerning displays of indoor pyrotechnics. The rules:

- (1) must require that a certificate of insurance be issued that provides general liability coverage of at least five hundred thousand dollars (\$500,000) for the injury or death of any number

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of persons in any one (1) occurrence and five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence by an intended display of indoor pyrotechnics arising from any acts of the operator of the display or the operator's agents, employees, or subcontractors;

(2) must require the person intending to present the display to give, at least twenty four (24) hours before the time of the display, written notice of the intended display to the chief of the responding fire department of the location proposed for the display of the indoor pyrotechnics and to include with the written notice a certification from the person intending to display the indoor pyrotechnics that the display will be made in accordance with:

(A) the rules adopted under this section; and

(B) any ordinance or resolution adopted under section 4 of this chapter;

(3) must include and adopt NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts ~~12269~~; **02169**;

(4) must be amended to adopt any subsequent edition of NFPA Standard 1126, including addenda, within eighteen (18) months after the effective date of the subsequent edition; and

(5) may provide for amendments to NFPA Standard 1126 as a condition of the adoption under subdivisions (3) and (4).

SECTION 31. IC 22-12-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) "Mobile structure" means any part of a fabricated unit that is designed to be:

(1) towed on its own chassis; and

(2) connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

(b) The term includes the following:

(1) Two (2) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.

(2) Two (2) or more units that are separately towable but designed to be joined into one (1) integral unit.

(3) One (1) or more units that include a hoisting and lowering mechanism equipped with a platform that:

(A) moves between two (2) or more landings; and

(B) is used to transport one (1) or more individuals.

SECTION 32. IC 22-12-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The education

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board consists of eleven (11) voting members. The governor shall appoint nine (9) individuals as voting members of the education board, each to serve a term of four (4) years. The state fire marshal and the ~~executive deputy~~ director of the ~~public safety institute~~ **department's division of preparedness and training** shall also serve as voting members of the education board.

(b) Each appointed member of the education board must be qualified by experience or education in the field of fire protection and related fields.

(c) Each appointed member of the education board must be a resident of Indiana.

(d) The education board must include the following appointed members:

(1) ~~Two (2)~~ **Seven (7)** individuals who are ~~fire chiefs members of a fire department~~ **departments. Appointments under this subdivision must include the following:**

(A) **At least one (1) individual who is a full-time firefighter (as defined in IC 36-8-10.5-3).**

(B) **At least one (1) individual who is a volunteer firefighter (as defined in IC 36-8-12-2).**

(C) **At least one (1) individual who is a fire department officer.**

(2) ~~Two (2)~~ individuals who are not fire chiefs but are officers of a fire department.

(3) ~~Two (2)~~ members of a fire department who are not officers of the fire department but have at least ten (10) years of fire protection service.

(4) ~~Three (3)~~ **(2) Two (2)** citizens who are not members of a fire department.

SECTION 33. IC 22-12-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The fire and building services fund is established for the purpose of defraying the personal services, other operating expense, and capital outlay of the following:

(1) The department. ~~of fire and building services.~~

(2) The education board and the rules board.

(3) The commission.

(b) The fund shall be administered by the department. Money collected for deposit in the fund shall be deposited at least monthly with the treasurer of state.

(c) The treasurer of state shall deposit the following collected amounts in the fund:

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(1) Fire insurance policy premium taxes assessed under section 5 of this chapter.

(2) Except as provided in section 6(d) of this chapter, all fees collected under this chapter.

(3) Any money not otherwise described in this subsection but collected by the ~~office of the state fire marshal or by the office of the state building commissioner~~ **division of fire and building safety**.

(4) Any money not otherwise described in this subsection but collected by the department, commission, education board, or rules board and designated for distribution to the fund by statute or the executive director of the department.

(5) A fee collected by the education board for the issuance of a certification under IC 22-14-2-7.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 34. IC 22-13-2-2, AS AMENDED BY HEA 1040-2006, SECTION 358, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The commission shall adopt rules under IC 4-22-2 ~~and IC 22-13-2.5~~ to adopt a statewide code of fire safety laws and building laws.

(b) Before December 1, 2003, the commission shall adopt the most recent edition, including addenda, of the following national codes by rules under IC 4-22-2 and IC 22-13-2.5 **(before its repeal)**:

(1) ANSI A10.4 (Safety Requirements for Personnel Hoists).

(2) ASME A17.1 (Safety Code for Elevators and Escalators, an American National Standard).

(3) ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts, American National Standard).

(4) ASME QE1-1 (Standard for the Qualification of Elevator Inspectors, an American National Standard).

(5) The American Society of Civil Engineers (ASCE) Automated People Mover Standard 21.

(6) ANSI A90.1 Safety Code for Manlifts.

(c) Before July 1, 2006, the commission shall adopt the most recent edition, including addenda, of ASME A17.3 (Safety Code for Existing Elevators and Escalators, an American National Standard) by rules under IC 4-22-2 and IC 22-13-2.5 **(before its repeal)**.

(d) The commission shall adopt the subsequent edition of each

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national code, including addenda, to be adopted as provided under subsections (b) and (c) within eighteen (18) months after the effective date of the subsequent edition.

(e) The commission may amend the national codes as a condition of the adoption under subsections (b), (c), and (d).

(f) To the extent that the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, apply to tents or canopies in which cooking does not occur, the commission shall suspend enforcement of the following sections of the International Fire Code, 2000 edition, until the division of fire and building safety recommends amendments to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations:

- (1) Section 2406.1 (675 IAC 22-2.3-233).
- (2) Section 2406.2.
- (3) Section 2406.3.

(g) To the extent that section 2403.2 of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, applies to a tent or canopy in which there is an open flame, the commission shall suspend enforcement of section 2403.2 until the division of fire and building safety recommends amendments to section 2403.2 to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations and amending section 2403.2.

(h) The division of fire and building safety shall recommend amendments to the commission to the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).
- (3) Section 2406.2.
- (4) Section 2406.3.

(i) After receiving and considering recommendations from the division of fire and building safety under subsection (h), and using the procedure set forth in IC 4-22-2-38, the commission shall amend the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).
- (3) Section 2406.2.
- (4) Section 2406.3.

SECTION 35. IC 22-14-2-7, AS AMENDED BY P.L.22-2005,

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SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) This section does not limit the powers, rights, duties, and other responsibilities of municipal or county governments or impose requirements affecting pension laws or any other laws.

(b) This section does not require a member of a fire department to be certified.

(c) The education board may:

- (1) certify firefighting training and education programs that meet the standards set by the education board;
- (2) certify fire department instructors who meet the qualifications set by the education board;
- (3) direct research in the field of firefighting and fire prevention and accept gifts and grants to direct this research;
- (4) recommend curricula for advanced training courses and seminars in fire science or fire engineering training to public and private institutions of higher education;
- (5) certify fire service personnel and nonfire service personnel who meet the qualifications set by the education board;
- (6) require fire service personnel certified at any level to fulfill continuing education requirements in order to maintain certification;
- (7) contract or cooperate with any person and adopt rules under IC 4-22-2 to carry out its responsibilities under this section; or
- (8) grant a variance to a rule the education board has adopted.

(d) The education board may impose a reasonable fee for the issuance of a certification described in subsection (c). The board shall deposit the fee in the fire and building services fund established by IC 22-12-6-1.

SECTION 36. IC 22-15-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The ~~commission~~ **department** may enter into an agreement under IC 22-13-2-12 to authorize the sale and use of industrialized building systems and mobile structures that are not certified under section 1 or 2 of this chapter but are certified under the requirements of any of the following:

- (1) The United States Department of Housing and Urban Development.
- (2) Another state.
- (3) A foreign country.

(b) The ~~commission~~ **department** may enter into an agreement under IC 22-13-2-12 to inspect and certify industrial building systems and mobile structures under the requirements of any of the following:

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- (1) The United States Department of Housing and Urban Development.
- (2) Another state.
- (3) A foreign country.

SECTION 37. IC 34-30-13-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. Except as provided in section 2 of this chapter, a physician licensed under IC 25-22.5 is immune from civil liability resulting from an act or omission related to the provision of medical direction concerning emergency medical services (as defined in IC 16-18-2-110) within the scope of the physician's license, if the physician provides medical direction concerning emergency medical services:**

- (1) to a person who is certified under IC 16-31 to provide the emergency medical services; and**
- (2) without compensation.**

SECTION 38. IC 36-8-12-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 18. (a) A volunteer fire department may declare the following records confidential for purposes of IC 5-14-3:**

- (1) Personnel files of members of the volunteer fire department.**
- (2) Files of applicants to the volunteer fire department.**

However, all personnel file information shall be made available to an affected member or the member's representative.

(b) Notwithstanding subsection (a), a volunteer fire department may not declare the following information contained in files described in subsection (a) confidential:

- (1) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former members of the volunteer fire department.**
- (2) Information relating to the status of any formal charges against a member.**
- (3) The factual basis for a disciplinary action in which final action has been taken and that resulted in the member being suspended, demoted, or discharged.**

(c) This section does not apply to disclosure of personnel information generally on all members or for groups of members without the request being particularized by member name.

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SECTION 39. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 10-15-3-2; IC 10-15-3-3; IC 16-31-3-13; IC 22-13-2.5.

SECTION 40. [EFFECTIVE JULY 1, 2006] (a) **This SECTION does not apply to the emergency medical services fund established by IC 16-31-8.5-3.**

(b) **After June 30, 2006, the following apply:**

(1) **The:**

(A) **emergency management fund;**

(B) **fire services fund;**

(C) **building services fund;**

(D) **emergency medical services fund; and**

(E) **stewardship fund;**

established by IC 10-15-3-1 are abolished.

(2) **All money contained in the funds listed in subdivision (1) is transferred to the Indiana homeland security fund established by IC 10-15-3-1, as amended by this act.**

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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